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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

March 24, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Doc No. GL S-5801

Oahu

Forfeiture of Duke Kahanamoku Beach Concession Contract
Filed as General Lease No. S-5801, C & K Beach Service,
Inc., Concessionaire, Duke Kahanamoku Beach, Waikiki,
Honolulu, Oahu, Tax Map Key: 2-3-037:021.

PURPOSE:

Forfeiture of Duke Kahanamoku Beach Concession Contract, dated
May 26, 2005, between the State of Hawaii, by its Board of Land
and Natural Resources, and C & K Beach Service, Inc., located on
Duke Kahanamoku Beach, Waikiki, Oahu, Tax Map Key: 2-3-037:021.

LEGAL REFERENCE:

Section 171-39, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Waikiki situated at Duke
Kahanamoku Beach, Waikiki, Honolulu, Oahu identified by Tax Map
Key: 2-3-037:021 shown on the attached map labeled Exhibit "A".

AREA:

.020 acres, more or less.

TRUST LAND STATUS:

Section 5(A) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES _____ NO X

CHARACTER OF USE:

Beach concession purposes, to include a concession stand area,
surfboard rack area and storage area, as more fully described in
the concession contract.

TERM OF LEASE:

Five (5) years, commencing on June 1, 2005 and expiring on May 31, 2010.

ANNUAL RENTAL:

\$217,308.00 due in quarterly payments of \$54,327.00, paid in advance.

REMARKS:

Pursuant to the authority granted the Chairperson by the Board of Land and Natural Resources at its meeting of January 11, 1980 and the breach provision contained in Duke Kahanamoku Beach Concession Contract dated May 26, 2005, C & K Beach Service, Inc., Concessionaire, was served a Notice of Default by certified mail dated March 8, 2006 for:

 X Failure to keep lease rental payments current.

Said notice, accepted by the Concessionaire on March 9, 2006, offered the Concessionaire a ten-day cure period to correct the breach. This cure period will expire on March 20, 2006. As of the date of the preparation of this submittal, this breach has not been cured. The concessionaire has stated that it cannot cure the breach.

As of March 24, 2006, it is expected that the status of all lease compliance items will be as follows:

RENT: The Concessionaire has a rental delinquency of \$72,586.00, representing \$18,109.00 balance due for the period of December 1, 2006 through February 28, 2006, \$54,327.00 due on March 1, 2006, for the period March 1, 2006 through May 31, 2006, and \$100.00 in late fees.

INSURANCE: The Lessee has posted the required liability insurance policy.

PERFORMANCE BOND:

The Lessee has posted the required performance bond.
This bond is in the form of cash deposit.

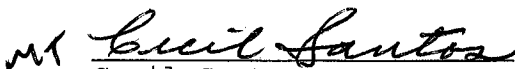
The concession has been delinquent in rent since December 1, 2005. The tenant made partial payments of \$18,109.00 each in December, 2005 and January 2006, but no February 2006 payment. When the next quarterly payment became due on March 1, 2006 and was not made, the amount of the delinquency increased to the present \$72,586.00.

Staff became concerned with the size of the delinquency and requested a meeting with C & K Beach Service, Inc.'s principal, Mr. Clyde Aikau. A meeting was held March 8, 2006 and was attended by staff, Mr. Aikau and his attorney, Mr. Chuck Choi. At the meeting, staff advised Mr. Aikau and Mr. Choi that a Notice of Default letter was being mailed this day, March 8, 2006 for \$72,586.00 past due. Mr. Choi advised that his client, Mr. Aikau, could not pay the \$72,586.00 and that upon receipt of the Notice of Default, would immediately file a Chapter 11 bankruptcy action.

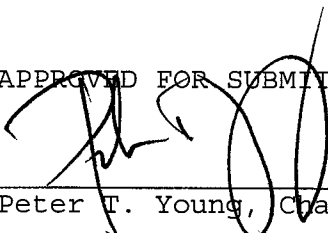
RECOMMENDATION: That the Board:

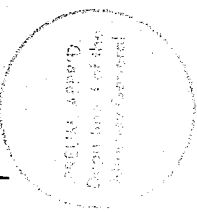
1. Authorize the cancellation of Duke Kahanamoku Beach Concession Contract, dated May 26, 2005, and filed as General Lease No. S-5801, in the manner specified by law;
2. Authorize the retention of all sums heretofore paid or pledged under the Duke Kahanamoku Beach Concession Contract, dated May 26, 2005, and filed as General lease No. S-5801, as liquidated damages;
3. Terminate Duke Kahanamoku Beach Concession Contract, dated May 26, 2005, and all rights of the Concessionaire and all obligations of the State effective as of March 24, 2006 provided that any and all obligations of the Concessionaire which have accrued up to said effective date or which are stated in the contract to survive termination shall endure past such termination date until duly fulfilled, and further provided that State reserves all other rights and claims allowed by law; and
4. Authorize the Department of the Attorney General, the Department of Land and Natural Resources, or their agents to collect all monies due the State of Hawaii under Duke Kahanamoku Beach Concession Contract dated May 26, 2005 and filed as General Lease No. S-5801, and to pursue all other rights and remedies as appropriate.

Respectfully Submitted,


Cecil Santos
Oahu District Land Agent

APPROVED FOR SUBMITTAL:


Peter T. Young, Chairperson

 DENOTES CIRCULAR CONCRETE AREA WITH THATCHED ROOF

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
SURVEY DIVISION

— 40' —
CONCRETE BOX